

**Q&A FROM  
2002 SEP HIPAA PRIVACY AWARENESS & TRAINING CONFERENCE**

**Military Exemptions and Military Specific Questions**

**Q: How do we handle a Unit Commander's right to access medical records?**

A: You can release the minimum necessary information to ensure fitness of duty or for determinations of a person's ability to perform their duties within the mission of their assignment to the appropriate commander or his designated representative. Military commanders will be required to identify their designated representatives in writing and the MTF will have to establish procedures to validate the identity of the person making the request.

**Q: What should I do if the commanding officer demands that his squadron leader (or another person) has access to the medical records?**

A: TMA has developed a community of interest brief that is targeted to commanders that can educate them on HIPAA privacy and reinforce that it is the flight surgeon's (or other provider's) responsibility to report to the squadron leader the health information needed for that patient. The MTF will have to determine the minimum necessary amount of information to provide for the commanding officer to judge the ability of that patient.

**Q: What about giving status on VIPs to the Surgeon General?**

A: Under the military exemption, the Surgeon General can be given the information, but should be given the minimum necessary information to allow him to inform the chain of command of the status of the VIP.

**Q: When we use the acronym MTF – do we mean Military Treatment Facility or Medical Treatment Facility? Do these facilities include Dental Treatment Facilities?**

A: The acronym MTF is defined as Military Treatment Facility and refers collectively to medical treatment facilities and dental treatment facilities.

**Q: Is there an initiative at TMA/HA or DoD/Service level to distill out applications/implementation for Dental Treatment Facilities?**

A: The requirements of HIPAA Privacy apply equally to the dental component of the military health system as it does to the medical treatment facilities. Dental treatment facilities will be required to establish policies and procedures to protect the confidentiality of a patient's health information they either create or possess. While not all of the policies outlined in the HIPAA Basics tool will be applicable, many will. Dental treatment facilities will be required to obtain a signature from their patients on the acknowledgement labels and affix the signed label to the patient's dental records

**Q: Are Dental recall information provided to line Commands via dental liaisons allowed under the military exemptions? Line commanders are responsible for their soldiers, sailors, airmen, etc. Can they be informed of a military member's pending appointment?**

A: Yes, this does fall under the military exemption permitted disclosures. Dental status can be a deployment disqualification. Commanders are responsible for ensuring that all soldiers, sailors, airmen are deployable.

**Q: In regard to penalties that would ordinarily be applicable to US citizens for HIPAA violations, what would be done in the case of EU country citizens who violate a HIPAA requirement? Would the EU regulation be applied through the legal system of the host nation?**

A: HIPAA only applies to the United States and to those military treatment facilities we operate in foreign countries. Violations of privacy standards by a member of our workforce who is a foreign citizen would have to be dealt with under the laws of the host country.

**Q: I'm also the TRICARE on-line point of contact (POC) for our facility. We (in this conference) haven't addressed the physical security aspects of HIPAA (i.e.: reference to firewalls?) --What is being done to ensure TOL complies w/HIPAA? Is that something we should be concerned with?**

A: Security issues will be addressed by the HIPAA Security Project Officer upon issuance of the final rule. We have begun an analysis of the security requirements to identify any that will enhance the implementation of the privacy rule. We will publish those with sufficient guidance to strengthen our privacy implementation. We are also working with other program offices in TMA to ensure their programs address HIPAA requirements.

**Q: Does the military exemption apply to midshipmen?**

A: Yes. Military command authorities need to know the health status of persons in these types of training programs to ensure they can fulfill their learning objectives and eventually join the active military services. It is always appropriate to apply the principles of release of minimum necessary information for these determinations to ensure a member's fitness of duty or ability to perform within the mission of their assignment as appropriate.

**Q: In reference to overseas patients, does this HIPAA Privacy rule apply?**

A: Yes. It applies wherever the MHS delivers care. We also have to comply with the laws of the host country.